

IN THE UNITED STATES BANKRUTPCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

In re: :
: CHAPTER 11
LITTLE WASHINGTON FABRICATORS, INC., :
: Debtor. : Case No. 22-10695 (PMM)

**JOINT MOTION OF STEWART & TATE CONSTRUCTION AND LITTLE
WASHINGTON FABRICATORS, INC. FOR APPROVAL OF STIPULATION
REGARDING JOINT CHECK AGREEMENT
ON REJECTED EXECUTORY CONTRACT**

NOW COMES Stewart & Tate Construction (“S&T” or the “General Contractor”), by and through its counsel, Post & Schell, P.C., and Little Washington Fabricators, Inc. (“LWF” or the “Debtor”), by and through its counsel, Ciardi, Ciardi & Astin, and file this Joint Motion for Approval of Stipulation Regarding Joint Check Agreement on Rejected Executory Contract and in support thereof state as follows:

1. On March 22, 2022, LWF filed a voluntary petition under Chapter 11 of the United States Bankruptcy Code (the “Petition”) in the United States Bankruptcy Court for the Eastern District of Pennsylvania.
2. The Debtor remains in possession of its property and is managing its affairs as a Debtor-in-Possession.
3. On or about April 15, 2021 (approximately eleven months prior to the filing of the Petition), LWF and S&T entered into a contract for a project known as the Blue Spring Egg Farm and designated as Contract 21-028, wherein LWF was the subcontractor and S&T was the General Contractor (the “Contract”).

4. In or about September of 2021, as part of the Contract and pursuant to the request of LWF, S&T and LWF entered into two Joint Check Agreements (the “JCAs”) with two different suppliers, namely Vulcraft of New York, Inc. (“Vulcraft”) and Metals USA Plates & Shapes, Inc. (“Metals USA”) (collectively referred to as the “Suppliers” and individually as a “Supplier”).

5. The JCAs provide that S&T issue joint checks payable to LWF and each of the Suppliers for the amount due to the Supplier for services and materials provided for the Project, which LWF then endorses and the Supplier deposits, with the Supplier applying the amount against the Supplier’s invoice.

6. The joint checks are to be delivered directly to the Supplier by S&T following LWF’s endorsement, without the checks ever being in the possession of LWF.

7. From the time of execution of the JCAs, all payments for services and materials provided to the Project by the Suppliers were paid pursuant to the JCA arrangement described above.

8. On April 14, 2022, the Debtor filed its First Omnibus Motion for Authority to Reject Certain Executory Contracts (the “First Omnibus Motion”) which contained a list of contracts to be rejected, including the Contract.

9. On May 3, 2022, the Court entered an Order Approving the First Omnibus Motion and rejecting the Contract.

10. At the time of the filing of the Petition, there were prepetition amounts due and owing the Suppliers pursuant to the JCA arrangement in the following amounts: \$56,716.78 for Vulcraft; and \$5,017.03 for Metals USA (“Pre-Petition Joint Checks”).

11. As a result of the filing of the Petition, LWF did not endorse the Pre-Petition Joint Checks.

12. S&T and the Debtor agree that the Suppliers are entitled to payment of the above referenced amounts pursuant to the JCAs.

13. S&T and the Debtor have entered into a Stipulation Regarding Joint Check Agreement on Rejected Executory Contract (the “Stipulation”), a copy of which is attached hereto as Exhibit A and incorporated herein.

14. S&T and the Debtor believe, and therefore aver, that the Stipulation is in the best interest of the parties.

15. S&T and the Debtor request that an Order be entered approving the Stipulation.

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WHEREFORE, Little Washington Fabricators, Inc. and Stewart & Tate Construction respectfully request that this Honorable Court enter an Order approving the Stipulation and granting such further relief as may be necessary or appropriate.

Respectfully submitted,

POST & SCHELL, P.C.

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